

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

**In re**

**CIRCUIT CITY STORES, INC., et al.,  
Debtors.**

**Chapter 11**

**Case No. 08-35653 (KRH)**

**Jointly Administered**

**AMENDED RESPONSE OF CERMAK PLAZA ASSOCIATES, LLC TO  
TRUSTEE'S SECOND OMNIBUS OBJECTION TO LANDLORD CLAIMS**

Cermak Plaza Associates, LLC ("Cermak") hereby submits its Response to the Trustee's Second Omnibus Objection to Landlord Claims dated February 25, 2011 (the "Objection"), pursuant to which the Trustee seeks, among other things, to reduce Cermak's claim in this matter from \$129,231.44 to \$78,433.03. Cermak respectfully requests that the Objection be overruled, and that its claim be allowed in the amount of \$117,720.49, and further states as follows:

1. Cermak filed a timely proof of claim in this matter on April 30, 2009 in the amount of \$129,231.44 (the "Cermak Claim"), designated as Claim Number 12809. The Cermak Claim is based on unpaid rent, taxes and CAM charges due in connection with the lease entered into by Circuit City Stores, Inc. ("Circuit City") for a store located in Cermak Plaza, Berwyn, Illinois (the "Cermak Plaza Lease").

2. Filed with this Response is the Declaration of Michael Flight, President of Concordia Realty Management Inc., which is Cermak's managing agent at Cermak Plaza. As set

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Counsel for Cermak Plaza Associates, LLC

forth in the Flight Declaration, the amount of \$117,720.40 remains due to Cermak associated with Circuit.

3. The records attached to the Flight Declaration contradict the Trustee's position in the Objection that the Cermak Claim should be reduced to \$78,433.03 (by deducting \$39,133.73 for administrative rent, \$9,031.58 for prepetition CAM charges and \$2,633.10 for postpetition CAM charges). In fact, (i) the portion of the Cermak Claim constituting administrative rent is less than the amount of the reduction for this item sought by the Trustee (i.e., the Cermak Claim is comprised of only \$25,924.43 in administrative rent, principally due for the month of November 2008), (ii) the postpetition CAM charges sought by Cermak (i.e., \$2,633.10) were incurred in November 2008 when the Cermak Plaza store was still occupied by Circuit City; and (iii) the prepetition CAM charges sought to be deducted from the Cermak Claim were incurred by Circuit City in 2007 and are properly due as prepetition damages under the Cermak Plaza Lease.

4. Any reply by the Debtors or the Trustee to this Response should be directed to the following counsel: Jane W. Arnone, Esq., Benanti & Associates, 350 Bedford Street, Suite 201, Stamford, CT 06901; Telephone (203) 324-9559; Facsimile (203) 358-8582; Email: [benanti\\_associates@msn.com](mailto:benanti_associates@msn.com). Such counsel should also be contacted to negotiate any possible resolution of the Objection.

WHEREFORE, Cermak respectfully requests that the Objection be overruled, and that the Cermak Claim be allowed in the amount of \$117,720.40.

Dated: May 9, 2011

**CHRISTIAN & BARTON, LLP**

/s/ Michael D. Mueller

Augustus C. Epps, Jr., Esquire (VSB No. 13254)

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*Counsel for Cermak Plaza Associates, LLC*

**CERTIFICATE OF SERVICE**

I, Michael D. Mueller, hereby certify that on the 9<sup>th</sup> day of May 2011, a true and correct copy of the foregoing response has been served electronically using the ECF system on all registered users of the CM/ECF system who have filed notices of appearance in this matter.

/s/ Michael D. Mueller

Michael D. Mueller

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

_____	x	
In re:	:	CHAPTER 11
	:	
CIRCUIT CITY STORES, INC., ET AL.,	:	Case No. 08-35653-KRH
	:	
Debtors.	:	
_____	x	Jointly Administered

DECLARATION OF MICHAEL FLIGHT IN SUPPORT OF RESPONSE  
OF CERMAK PLAZA ASSOCIATES, LLC

STATE OF ILLINOIS	)		
	)	SS: WESTCHESTER	APRIL 5, 2011
COUNTY OF _____	)		

Michael Flight, being duly sworn, deposes and says under penalty of perjury as follows:

1. I am over the age of eighteen (18) and believe in the obligations of an oath.
2. As the President of Concordia Realty Management Inc. ("Concordia"), which is the managing agent for Cermak Plaza Associates, LLC ("Cermak"), I am fully familiar with the facts and circumstances contained herein, and the same are true to the best of my knowledge, information and belief. Further, I have personal knowledge of the books and records of Cermak, maintained in the ordinary course of Cermak's business, as those books and records relate to the instant matter.
3. I make this Declaration in support of Cermak's Response to the Trustee's Second Omnibus Objection to Landlord Claims dated February 25, 2011 (the "Objection"), pursuant to

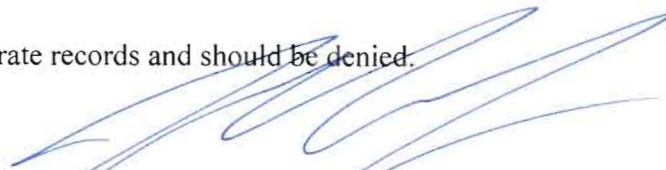
which the Trustee seeks, among other things, to reduce Cermak's claim in this matter from \$129,231.44 to \$78,433.03.

4. Cermak filed a timely proof of claim in this matter on April 30, 2009 in the amount of \$129,231.44 (the "Cermak Claim"), designated as Claim Number 12809. The Cermak Claim is based on unpaid rent, taxes and CAM charges due in connection with the lease entered into by Circuit City Stores, Inc. ("Circuit City") for a store located in Cermak Plaza, Berwyn, Illinois (the "Cermak Plaza Lease").


5. Collectively attached hereto as Exhibit A is a portion of the ledger maintained by Concordia for the Cermak Plaza Lease, together with a report detailing a list of the unpaid items remaining due from Circuit City in connection with the Cermak Plaza Lease and its occupancy of the Cermak Plaza store. As indicated in these documents, the amount of \$117,720.40 remains due to Cermak associated with Circuit City's nonpayment of rent, CAM charges and taxes due under the Cermak Plaza Lease.

6. Based on the attached records, the Cermak Claim should be allowed in the amount of \$117,720.40. The Trustee's request in the Objection that the Cermak Claim be reduced to

\$78,433.03 is not supported by accurate records and should be denied.

  
\_\_\_\_\_  
Michael Flight

Subscribed and sworn to  
before me this 6th day  
of April, 2011

  
\_\_\_\_\_  
Notary Public